

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 679 OF 2021

1. Babasaheb Raghunath Ghode
Age : 30 Years, Occu: Labour
R/o Gogalgaon, Tq. Rahata,
Dist. Ahmednagar.
2. Raghunath Baburao Ghode
Age : 65 Years, Occu: Nil
R/o. Gogalgaon, Tq. Rahata,
Dist. Ahmednagar.
3. Zumberbai Raghunath Ghode
Age : 60 Years, Occu: Nil
R/o. Gogalgaon, Tq. Rahata,
Dist. Ahmednagar.
4. Sangita Raghunath Ghode
Age : 60 Years, Occu : Household
R/o. Gogalgaon, Tq. Rahata,
Dist. Ahmednagar.
5. Raju Bhausahab Vidya
Age : 35 Years, Occu: Labour
R/o. Korhale, Tq. Rahata,
Dist. Ahmednagar.
6. Mangal Changdev Raut
Age : 34 years, Occu: Household
R/o Varzadi, Tq. Sangamner,
Dist. Ahmednagar.
7. Pennabai Rajendra Raut
Age : 38 years, Occu: Household
R/o. Varzadi, Tq. Sangamner,
Dist. Ahmednagar

... Applicants

Versus

1. The State of Maharashtra
Through Police Station Officer,
Lone, Tq. Rahata, Dist. Ahmednagar

2. Sunita W/o. Babasaheb Ghode
Age: 32 years, Occu: Household
R/o. Gogalgaon, Tq. Rahata,
Dist. Ahmednagar.

... Respondents

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Mr. Shaikh Mazhar A. Jahagirdar, Advocate for the Applicants
Mr. Anand S. Shinde, APP for Respondent No.1 / State
Ms. Bharti B. Gunjal, Advocate (appointed) for Respondent No.2

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 20th AUGUST, 2021

FINAL ORDER :-

1. We have heard the learned counsel for the applicants for some time.

2. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application to the extent of applicant no.1 – Babasaheb Raghunath Ghode, applicant no.2 – Raghunath Baburao Ghode, applicant no.3 – Zumbarbai Raghunath Ghode, applicant no.4 – Sangita Raju Vaidya and applicant no.5 – Raju Bhausaheb Vaidya.

3. Leave granted. Criminal application to the extent of applicant nos.1 to 5 is hereby dismissed as withdrawn.

4. With consent of the parties heard finally, at admission stage.

5. Learned counsel for the applicants submits that though the names of applicant nos. 6 and 7 are mentioned in the F.I.R., however, no allegations have been made against them. Learned counsel submits that applicant nos. 6 and 7 are the married sisters-in-law of respondent no.2, residing at Varzadi, Tq. Sangamner, Dist. Ahmednagar, whereas, the matrimonial home of respondent no.2 is situated at Gogalgaon, Tq. Rahata, Dist. Ahmednagar. There are no allegations against them as to in what manner they have subjected respondent no.2 to cruelty.

6. Learned counsel for respondent no.2 submits that respondent no.2 was subjected to ill-treatment six months after the marriage on account of non-fulfillment of demand of Rs.3,00,000/- as dowry and also for purchasing a Tractor. Even though, initially the matter was settled and respondent no.2 has again cohabited in her matrimonial home, however, thereafter also she was subjected to ill-treatment on account of non-fulfillment of the said demand. Learned counsel submits that co-accused husband is the son of the paternal aunt of respondent no.2, and as such, it is not possible for

the family members of respondent no.2 to intervene in the matter. In consequence thereof, respondent no.2 was subjected to ill-treatment. Learned counsel submits that respondent no.2 also initiated the maintenance proceedings, wherein she was granted maintenance, however, co-accused has not deposited any amount in the said maintenance proceedings.

7. We have also heard the learned APP for respondent no.1 / State.

8. In case of *Taramani Parakh Vs. State of Madhya Pradesh and others* reported *in (2015) 11 SCC 260*, the Hon'ble Supreme Court has held that, "law relating to quashing is well settled. If the allegations are absurd or do not made out any case or if it can be held that there is abuse of process of law, the proceedings can be quashed but if there is a triable case the Court does not go into reliability or otherwise of the version or the counter version. In matrimonial cases, the Courts have to be cautious when omnibus allegations are made particularly against relatives who are not generally concerned with the affairs of the couple."

9. In case of *Geeta Mehrotra & Anr. Vs. State of U.P.* reported in *AIR 2013 SC 181*, the Hon'ble Supreme Court has observed that, "the courts are expected to adopt a cautious approach in matters of

quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR *prima facie* discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.”

10. In the instant case, though we find that names of applicant nos. 6 and 7 are mentioned in the F.I.R., however, except their names, no allegations have been made against them. Further, applicant nos. 6 and 7 are the married sisters-in-law of respondent no.2 and residing at their respective matrimonial homes. Thus, the ratio laid down in the aforesaid two cases is squarely applicable to the facts and circumstances of the present case. We, thus, proceed to pass the following order:-

ORDER

- (i) The criminal application is allowed in terms of prayer clause ‘B’ to the extent of applicant no.6 – Mangal Changdev Raut and applicant no.7 – Pennabai Rajendra Raut.
- (ii) The criminal application is accordingly disposed of.

- (iii) We quantify the legal fees of the Counsel appointed for respondent no.2/original complainant at Rs.2,000/- (Rupees Two thousand only) to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P Rane